

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4706 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos. 1 to 5 No.

RAMVILAS BADELAL RAJPUT

Versus

DISTRICT MAGISTRATE

Appearance:

No one appears for the petitioner.
Mr.Neegam Shukla,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 6.4.1996 passed by the District Magistrate, Ahmedabad whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 7.6.1996 and since then the petitioner is under detention.

The present Special Civil Application was filed in this Court on 5.7.1996 and on 8.7.1996 Rule returnable for 19.8.1996 was issued and so far no reply or affidavit of the Detaining Authority has been filed. The grounds enclosed with the detention order show that five criminal cases under Bombay Prohibition Act were registered against the petitioner and yet another criminal case was registered against the petitioner for the offences u/Ss. 302, 323, 504 & 118 of IPC and Section 115 of the Bombay Police Act. Besides this criminal case, the Detaining Authority has taken into consideration the statements made by five witnesses against the petitioner's antisocial and criminal activities. The petitioner has been found to be engaged in an unauthorised liquor business and he has been detained as bootlegger and dangerous person.

On the basis of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 and in view of the law laid down by the Supreme Court in the case of M.J.Shaikh Vs. M.M.Mehta (Mustakmiya's case) it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner even if taken to be true do not constitute a case of breach of public order and at the most it is a case of law and order. The detention order therefore deserves to be quashed and set aside.

Accordingly this Special Civil Application is allowed. The impugned order of detention dated 6.4.1996 passed by the District Magistrate, Ahmedabad, is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
